

DEPARTMENT OF EDUCATION
STATE BOARD OF EDUCATION
SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the Secretary of State on ____ .
These rules take effect on ____.

(By authority conferred on the state board of education by sections 1701 and 1703 of 1976
PA 451, MCL 380.1701 and 380.1703)
R 340.1713, R 340.1715, R 1722a, R 1724d, R 340.1733, R 340.1749a, R 340.1749b,
R 340.1756, R 340.1758, R 340.1799 of the Michigan Administrative Code are amended; and
R 340.1717, R340 1799G are added to the Code as follows:

DRAFT

August 1, 2003

**DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND EARLY INTERVENTION SERVICES
PART 1.
GENERAL PROVISIONS**

R 340.1713 Specific learning disability defined; determination.

Rule 13. (1) "Specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual impairments, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems that are primarily the result of a visual, hearing, or motor impairment, of a cognitive impairment, of an emotional impairment, of autism **spectrum disorder**, or of environmental, cultural, or economic disadvantage.

(2) The individualized education program team may determine that a child has a specific learning disability if the child does not achieve commensurate with his or her age and ability levels in 1 or more of the areas listed in this subrule, when provided with learning experiences appropriate for the child's age and ability levels, and if the multidisciplinary evaluation team finds that a child has a severe discrepancy between achievement and intellectual ability in 1 or more of the following areas:

- (a) Oral expression.
- (b) Listening comprehension.
- (c) Written expression.
- (d) Basic reading skill.
- (e) Reading comprehension.
- (f) Mathematics calculation.
- (g) Mathematics reasoning.

(3) The individualized education program team shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of any of the following:

- (a) A visual, hearing, or motor impairment.
- (b) Cognitive impairment.
- (c) Emotional impairment.
- (d) Autism **spectrum disorder**.
- (e) Environmental, cultural, or economic disadvantage.

(4) At least 1 individualized education program team member other than the student's general education teacher shall observe the student's academic performance in the general education classroom setting. For a child who is less than school age or who is out of school, an individualized education program team member shall observe the child in an environment appropriate for a child of that age.

(5) For a student suspected of having a specific learning disability, the documentation of the individualized education program team's determination of eligibility shall include a statement concerning all of the following:

- (a) Whether the student has a specific learning disability.
- (b) The basis for making the determination.
- (c) The relevant behavior noted during the observation of the student.
- (d) The relationship of that behavior to the student's academic functioning.
- (e) The educationally relevant medical findings, if any.
- (f) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services.
- (g) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(6) Each individualized education program team member shall certify, in writing, whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusions.

(7) A determination of learning disability shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:

(a) The student's general education teacher or, if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.

(b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, an authorized provider of speech and language under R 340.1745(d), or a teacher consultant.

R 340.1715 ~~“Autism” defined; determination.~~ Autism spectrum disorder defined; determination.

Rule 15. ~~(1) “Autism” means a lifelong developmental disability that is typically manifested before 30 months of age. “Autism” is characterized by disturbances in the rates and sequences of cognitive, affective, psychomotor, language, and speech development.~~

~~(2) The manifestation of the characteristics specified in subrule (1) of this rule and all of the following characteristics shall determine if a student has autism:~~

~~(a) Disturbance in the capacity to relate appropriately to people, events, and objects.~~

~~(b) Absence, disorder, or delay of language, speech, or meaningful communication.~~

~~(c) Unusual or inconsistent response to sensory stimuli in 1 or more of the following:~~

~~(i) Sight.~~

~~(ii) Hearing.~~

~~(iii) Touch.~~

~~(iv) Pain.~~

~~(v) Balance.~~

~~(vi) Smell.~~

~~(vii) Taste.~~

~~(viii) The way a student holds his or her body.~~

~~(d) Insistence on sameness as shown by stereotyped play patterns, repetitive movements, abnormal preoccupation, or resistance to change.~~

~~(3) To be eligible under this rule, there shall be an absence of the characteristics associated with schizophrenia, such as delusions, hallucinations, loosening of associations, and incoherence.~~

~~(4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team. The team shall include, at a minimum, a psychologist or psychiatrist, an authorized provider of speech and language services under R 340.1745(d), and a school social worker.~~

(1) Autism spectrum disorder is considered a lifelong developmental disability that adversely affects a student's educational performance, in one or more of the following performance areas:

(a) Academic.

(b) Behavioral.

(c) Social.

Autism spectrum disorder is typically manifested before 36 months of age; a child who first manifests the characteristics after age 3 may also meet criteria. Autism spectrum disorder is characterized by qualitative impairments in reciprocal social interactions, qualitative impairments in communication, and restricted range of interests/repetitive behavior.

(2) Determination for eligibility shall include: (a), (b), (c), and may include (d):

(a) Qualitative impairments in reciprocal social interactions include at least two of the following areas:

- (i) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction.
- (ii) Failure to develop peer relationships appropriate to developmental level.
- (iii) Limitations in spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest).
- (iv) Limitations in the areas of social or emotional reciprocity.
- (b) Qualitative impairments in communication include at least 1 of the following:
 - (i) Delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime).
 - (ii) Marked impairment in pragmatics or in the ability to initiate, sustain, or engage in reciprocal conversation with others.
 - (iii) Stereotyped and repetitive use of language or idiosyncratic language.
 - (iv) Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level.
- (c) Restricted, repetitive, and stereotyped behaviors include at least 1 of the following:
 - (i) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus.
 - (ii) Apparently inflexible adherence to specific, nonfunctional routines or rituals.
 - (iii) Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements).
 - (iv) Persistent preoccupation with parts of objects.
- (d) Unusual or inconsistent response to sensory stimuli, in combination with (a), (b), and (c) above.
- (3) While autism spectrum disorder may exist concurrently with other diagnoses or areas of disability, to be eligible under this rule, there shall not be a primary diagnosis of schizophrenia or emotional impairment.
- (4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team including, at a minimum, a psychologist or psychiatrist, an authorized provider of speech and language under R 340.1745(d), and a school social worker.

R 340.1717 Deaf-blindness defined; determination.

Rule 17. (1) Deaf-blindness means concomitant hearing impairment and visual impairment, the combination of which causes severe communication and other developmental and educational needs that cannot be accommodated in special education programs without additional supports to address the unique needs specific to deaf-blindness.

(a) Documented hearing and visual losses that, if considered individually, may not meet the requirements for visual impairment or hearing impairment, but the combination of the losses affects educational performance.

(b) Such students function as if they have both a hearing and visual loss, based upon responses to auditory and visual stimuli in the environment, or during vision and hearing evaluations.

(2) A determination of the disability shall be based upon data provided by a multidisciplinary evaluation team which shall include assessment data from the following:

- (a) Medical specialists such as:
 - (i) An ophthalmologist.
 - (ii) An optometrist.
 - (iii) An audiologist.
 - (iv) An otolaryngologist.

- (v) An otologist.**
- (vi) A family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.**
- (b) A teacher of students with visual impairment.**
- (c) A teacher of students with hearing impairment.**

DRAFT

PART 2.
EVALUATION, ELIGIBILITY, STUDENT ASSIGNMENT,
AND DUE PROCESS PROCEDURES

R 340.1722a Implementation of individualized education program.

Rule 22a. (1) The superintendent of the school district of residence, upon receipt of the individualized education program, shall, within 7 calendar days, ~~either appeal under R 340.1724 or~~ provide written notice to the parent of the agency's intent to implement special education programs and services. The notice shall identify where the programs and services are to be provided and when the individualized education program begins.

(2) The parent, upon receipt of notification from the superintendent, shall have the right, at any time, to appeal the decision under R 340.1724. If the parent does not appeal, then the superintendent shall initiate the individualized education program as soon as possible, but not later than 15 school days after the parent has been notified. An initiation date may be later than 15 school days if clearly specified in the individualized education program; however, a projected initiation date shall not be used to deny or delay programs or services because they are not available and shall not be used for purposes of administrative convenience.

(3) If a student with a disability is to be provided special education or related services for the first time, then the parent has 10 calendar days after receipt of the notice from the superintendent to provide the public agency with written consent to provide special education programs and services. If the parent refuses consent or does not respond, then the public agency has the right to request a hearing under R 340.1724.

R 340.1724d Mediation.

Rule 24d. (1) A parent or public agency may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties of a dispute that might be the subject of a complaint under part 8 of the rules or a due process hearing under R 340.1724 or R 340.1724(c).

(2) The mediator shall be subject to mutual agreement by the parties.

(3) The state board shall approve procedures regarding the mediation process.

(4) Except as provided in 34 CFR §300.526, during the pendency of any proceedings under this rule, unless the state or local agency and the parents agree otherwise, the student involved in the mediation must remain in his or her current educational placement. If the mediation involves an application for initial admission to public school, the student, with the consent of the parent, must be placed in the public school until the completion of all the proceedings.

PART 3.
ADMINISTRATION OF PROGRAMS AND SERVICES

R 340.1733 Program and service requirements; ~~effective dates.~~

Rule 33. An intermediate school district, local school district, public school academy, and any other agency shall adhere to all of the following general requirements for all programs and services for students with disabilities:

(a) Special education classrooms or areas where related services are provided shall have at least the same average number of square feet per student, light, ventilation, and heat conditions as provided for general education students in the school district.

(b) Programs for students with severe cognitive impairment and severe multiple impairments which have students under 16 years of age shall not exceed a 6-year age span at any one time.

(c) All other special education programs which have students under 16 years of age and which are operated in separate facilities shall not exceed a 4-year age span at any one time.

(d) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in elementary buildings attended by children who are nondisabled, shall not exceed, at any one time, a 6-year age span or the age span of the students who are nondisabled in the building, whichever is less.

(e) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in secondary buildings attended by students who are nondisabled, shall not exceed, at any one time, the age span of the students who are nondisabled in the building, except in high school buildings where students up to 26 years of age may be served. The term “nondisabled” shall not include persons participating in adult education programs.

(f) Programs for students with severe cognitive impairment, severe multiple impairments, and moderate cognitive impairment shall comply with subdivisions (a), (b), (c), (d), and (e) of this rule unless a program is operated in accordance with an approved intermediate school district plan where, due to the low incidence of eligible students, expanded age ranges may be necessary for programmatic feasibility and meeting the needs of students.

(g) Students with disabilities qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in general education programs, in addition to those supplies and equipment necessary to implement a student’s individualized education program.

(h) Intermediate school districts, local school districts, public school academies, or a combination of such agencies in cooperation with public and private entities, shall provide or contract for the provision of transition services. Special education teachers shall be assigned to supervise such services. Professional special education personnel, a transition coordinator, or both, shall coordinate transition services.

(i) For worksite-based learning, a written agreement/plan is required and shall be signed by the student, parent, school, and worksite representative. The agreement shall set forth all of the following information:

- (i) Expectations and standards of attainment.
- (ii) Job activities.
- (iii) Time and duration of the program.
- (iv) Wages to be paid to the student, if applicable.
- (v) Related instruction, if applicable.

The superintendent of the school district shall designate a staff member to visit the student's worksite at least once every 30 calendar days for the duration of the program to check attendance and student progress and assess the placement in terms of health, safety, and welfare of the student.

(j) Substitute instructional aides specified in R 340.1738, R 340.1739, and R 340.1748 shall be provided when assigned instructional aides are absent. In addition, teacher aides specified in R 340.1739 and R 340.1740 shall be provided when assigned teacher aides are absent.

(k) Secondary special education teachers shall teach either special education courses approved for graduation by the local education agency or special education courses within an approved special education curriculum.

R 340.1749a Elementary level resource program.

Rule 49a. (1) A special education elementary level resource program may be provided by a special education teacher.

(2) The elementary resource teacher shall serve not more than 10 students at any one time and not more than 18 different students and shall do either or both of the following:

(a) Provide direct instruction to students on the resource teacher's caseload and may assign grades or other evaluative measures for this instruction.

(b) Provide support to the general education classroom teachers to whom special education students on the resource teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) The elementary resource teacher may provide supplemental instruction to students on his or her caseload.

(4) The elementary resource teacher may evaluate general education students within the same building who are suspected of having a disability and, therefore, may serve on the initial multidisciplinary evaluation team. The resource teacher shall be responsible for the evaluation of not more than 2 students at one time. Time shall be allocated to the resource teacher to carry out this responsibility.

(5) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational ~~planning committee~~ **program team** shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

R 340.1749b Secondary level resource program.

Rule 49b. (1) A special education secondary level resource program may be provided by a special education teacher.

(2) A secondary resource teacher shall serve not more than 10 students at any one time and have a caseload of not more than 20 different students and shall do either or both of the following:

(a) Provide direct instruction for special education courses approved for graduation by the local educational agency. The teacher may assign grades or other evaluative measures for this instruction.

(b) Provide support to the general education classroom teachers to whom special education students on the resource room teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) The secondary resource teacher may provide supplemental instruction to students on his or her caseload who are enrolled in general education classes. The teacher shall not teach a class and offer tutorial assistance at the same time.

(4) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational ~~planning committee~~ **program team** shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

R 340.1756 Programs for students with severe language impairment.

Rule 56. (1) A public agency may establish programs for students with severe language impairment. Specific requirements for these programs are as follows:

(a) A program for students with severe language impairment conducted by a teacher of programs for students with speech and language impairment shall serve only young children with disabilities or developmental delay or elementary students with severe language impairment.

(b) The program shall have not more than 10 students or young children with speech and language impairment in the classroom at any one time, and the teacher shall have responsibility for the educational programming for not more than 15 different children.

(2) Students or young children with speech and language impairment eligible for this program are those with a severe disability in the comprehension or expression of language as determined through the manifestation of all of the following characteristics which adversely affects educational performance:

(a) Demonstration of functioning within or above normal intellectual potential as measured by instruments that do not rely exclusively on oral direction or oral expression.

(b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which clearly show language functioning not appropriate for the child's mental age.

(c) Oral language at less than the expected level based on the child's mental age in not less than 2 of the following areas:

(i) Phonology.

(ii) Morphology.

(iii) Syntax.

(iv) Semantics.

(v) Pragmatics.

(3) The programs for students with severe language impairment are not designed for children whose language impairment is primarily the result of autism **spectrum disorder** or cognitive, emotional, hearing, visual, physical, or other health impairments as defined in part 1 of these rules.

R 340.1758 Programs for students with autism SPECTRUM DISORDER.

Rule 58. (1) Specific requirements for programs for students with autism **spectrum disorder** shall be provided using either of the following alternatives:

(a) Programs that consist of 1 classroom program for students with autism **spectrum disorder** shall not have more than 5 students and shall be served by a teacher of students with autism **spectrum disorder**. However, programs that consist of more than 1 classroom may have more than 5 students in a classroom, if the average student-to-teacher-and-aide ratio does not exceed 5 students to 1 teacher and 1 aide. A classroom with 3 or more students shall have 1 aide.

(b) A special education program described in the intermediate school district plan set forth in R 340.1832(d) and approved by the state board of education that assures the provision of educational programming for students with autism **spectrum disorder**.

PART 5.
QUALIFICATIONS OF TEACHERS AND OTHER PERSONNEL

R 340.1799 Teachers of students with autism SPECTRUM DISORDER; special requirements.

Rule 99. The teacher education program for teachers of students with autism **spectrum disorder** shall include a minimum of 30 semester or equivalent hours relating to all of the following areas:

- (a) ~~Syndrome of a~~ Autism **spectrum disorder**, including its etiology.
- (b) Child development, with special emphasis on language, communication, and cognitive development.
- (c) Behavioral intervention techniques.
- (d) Systematic curriculum development, with special emphasis on personal adjustment and prevocational education.
- (e) Home/school interactions.
- (f) Family and community support services.

R 340.1799g Transition coordinator; special requirements.

Rule 99g. (1) Full approval as a transition coordinator will be granted by the department to a person who meets all of the following requirements:

(a) At a minimum, a bachelor's degree in special education or field related to transition of youth with disabilities into adult life roles. Related fields include, but are not limited to, general and vocational education, vocational rehabilitation, and counseling.

(b) A minimum of 3 years of satisfactory teaching experience in special or vocational education at the secondary level; or a minimum of 3 years of satisfactory employment providing transition-related service to individuals with disabilities between the ages of 13-26 years. Transition-related services include, but are not limited to, vocational rehabilitation, employment, counseling, independent living, and mental health.

(c) A person with a master's degree in special education or field related to transition or youth with disabilities into adult life roles will be credited with 1 year of employment pursuant to (1)(b).

(d) Recommendation for approval from a college or university with a transition coordinator preparation program approved by the state board of education.

(2) A transition coordinator preparation program shall consist of a minimum of 9 semester or equivalent hours and a 3-hour practicum experience and evidence of all of the following:

- (a) Foundations of transition education, activities, and services.
 - (i) Knowledge of:
 - (A) Scope and role of transition coordinator.
 - (B) Theoretical and applied models of transition education and services.
 - (C) Transition-related legislation in the fields of special and vocational education, rehabilitation, labor, and civil rights.
 - (D) Roles of federal, state, and local legislation and implications for providing transition services at the local levels.
 - (E) Research on student outcomes and effective transition practices.
 - (F) Michigan rules regarding transition planning within the individualized education plan process.
 - (ii) Skills to:
 - (A) Apply knowledge of transition foundations to develop transition education, activities, and services for individual students through the individualized education plan process.
 - (b) Characteristics of learners.

- (i) Knowledge of:
 - (A) Characteristics of various exceptionalities and their implications with respect to school and post-school outcomes, environments, and support needs.
 - (B) School and post-school services available to specific populations of individuals with exceptional learning needs.
- (ii) Skills to:
 - (A) Access information regarding transition services for individuals with specific exceptionalities.
 - (B) Apply knowledge regarding characteristics of individual learners to develop transition education, activities, and services.
 - (c) Assessment, diagnosis, and evaluation.
- (i) Knowledge of:
 - (A) Large-scale state and federal testing requirements.
 - (B) Formal and informal career and vocational assessment approaches.
 - (C) Formal and informal approaches for identifying students' interests and preferences related to post-school goals and educational experiences.
 - (D) Approaches used to determine eligibility for special education services.
 - (E) Formal and informal approaches used to determine eligibility for transition-related community services, such as vocational rehabilitation services, mental health services, social security, postsecondary education, and medicaid.
- (ii) Skills to:
 - (A) Use a variety of formal and informal transition-related assessment procedures.
 - (B) Interpret results of transition-related assessments for individuals, families, school, and agency personnel.
 - (C) Match skills and interests of the student to skills and demands required by vocational or employment settings and community living and participation options.
 - (D) Design, implement, and use program evaluation procedures to assess and improve the effectiveness of transition education activities and services including evaluation of students' school and post-school outcomes.
- (d) Instructional content and practice.
 - (i) Knowledge of:
 - (A) Job seeking and job retention skills identified by employers as essential for successful employment.
 - (B) Vocational education and career preparation methods, models, and curricula.
 - (C) Range of school and post-school options within specific outcome areas.
 - (D) Transition planning strategies that facilitate information collection and input from appropriate participants.
 - (ii) Skills to:
 - (A) Identify a variety of outcomes and instructional options specific to the community for each post-school outcome area.
 - (B) Assist students to identify, in conjunction with the teacher, appropriate individualized education program team members.
 - (C) Use interests and preferences of the student to develop post-school goals and alignment of instructional activities with those goals.
 - (D) Evaluate students' individualized education programs with respect to measurable post-school goals and alignment of instructional activities with those goals.
 - (E) Monitor student, family, and agency participation in transition planning and implementation.
 - (F) Assist students and teachers to integrate specific transition-related goals, activities, and services in the individualized education program.
 - (G) Assist students and teachers to evaluate and modify transition goals, activities, and services on an ongoing basis.
 - (H) Manage student behavior and social interaction skills.

- (e) Planning and managing the learning environment.**
 - (i) Knowledge of:**
 - (A) Methods for establishing and providing work-based and other community-based activities for individuals with exceptional learning needs.**
 - (B) Methods for identifying and linking appropriate learning environments through which transition education, activities, and services are delivered.**
 - (ii) Skills to:**
 - (A) Identify and facilitate appropriate modifications and accommodations within work-based, community-based, and other learning environments.**
 - (B) Assess and develop natural support systems to facilitate transition to specific school and post-school options.**
 - (C) Develop work-based and other community-based transition education, activities, and services for students with exceptional learning needs.**
- (f) Communication and collaborative partnerships.**
 - (i) Knowledge of:**
 - (A) Methods and strategies for increasing students' and families' knowledge and skills about transition-related issues and topics, including transition education, activities, and services.**
 - (B) Procedures and requirements for referring students to community service agencies.**
 - (C) Methods to increase collaborative transition service delivery through interagency agreements and collaborative funding.**
 - (D) Strategies for involving students in all levels of personal and collaborative transition program planning and evaluation.**
 - (E) Role and function of transition-related community service agencies, including their procedures, capacity, and operating constraints.**
 - (ii) Skills to:**
 - (A) Provide educational opportunities to students and families regarding transition education, activities, and services and post-school options in specific outcome areas.**
 - (B) Provide transition-focused technical assistance and professional development in collaboration with family members for educators, community agency personnel, and other community partners.**
 - (C) Systematically identify student service needs related to transition outcomes.**
 - (D) Assist students and families with support network connections.**
 - (E) Initiate and participate in transition-focused interagency coordinating bodies.**
 - (F) Develop coordinated interagency strategies to collect, share, and use student information, with appropriate input and authorization of students and families.**
 - (G) Use strategies for resolving differences that may arise in the implementation of interagency agreements or the provision of transition education, activities, and services.**
 - (H) Identify future school and post-school student service needs using transition planning documents in conjunction with relevant agencies.**